

REMARKS/ARGUMENTS

1. Amendments to the Claims.

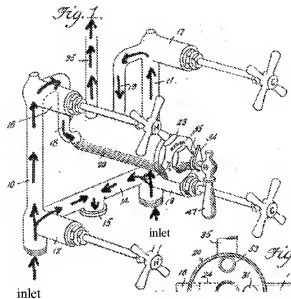
Claims 1-21 and 23-24 remain in this application. No amendments have been made in this response. For Examiner's convenience a current, clean version of the claims is being provided in this response.

2. Rejections to the Claims Under 35 U.S.C. §102.

Claims 1, 5, 12-13, 15, 17 and 22 were rejection under 35 U.S.C. §102 as anticipated by U.S. Patent No. 2,296,128 to Weingarten. As amended claims 1, 5 and 12 call for a plumbing assembly having, among other things, hot and cold water supplies, hot and cold water control valves coupled to respective hot and cold water supplies, a fill member or spout coupled to hot and cold water pipes downstream of the hot and cold water control valves, and an anti-scald valve (or thermostatic tempering valve in the case of claim 1) coupled to hot water supply at a location upstream of the hot water control valves. By way of the anti-scald valve's upstream connection to the primary hot and cold water supply pipes, the anti-scald valve can control the maximum flow of hot water to the hot water valve, and ultimately, the tub filler or spout independent of the hot water control valve.

Applicant reiterates the remarks made in the last response. More particularly, Weingarten '128 discloses a thermostatically controlled mixing valve that is coupled to primary hot and cold water supply pipes downstream of a pair each of hot and cold water control valves. As illustrated in FIG. 1 of Weingarten '128, which is reproduced below and has been annotated to facilitate this discussion, hot and cold water pipes 10, 11 receive water from hot and cold waters supplies at their lower ends. See Weingarten '128, Col. 1, line 55-Col. 2, line 2. Hot and cold water pipes 10, 11 are equipped with two pair of water control valves. Lower water control valves 12, 13 control the supply of hot and cold water to transverse mixing pipe 14 and upper water control valves 16, 17.

Upper water control valves 16, 17 (as well as lower water control valves 12, 13) control the hot and cold water supply to feed pipes 18, 19, which feed into temperature regulating device 20. Fig. 5 of Weingarten '128 also illustrates a mixing valve 66 coupled to water supply pipes 60, 61 downstream of manually actuated valves 62, 63, which control the supply of hot and cold water to the mixing valve 66.



Accordingly, Weingarten '128 fails to disclose an anti-scald valve coupled to the hot water supply pipe at a location upstream of the hot water control valve. Because Weingarten '128 fails to disclose all of the features of claims 1, 5 and 12, these claims and claims 2-4, 6-8, 13-21 and 13-24 depending therefrom, are not anticipated by, and are patentable over, Weingarten '128. Applicant respectfully requests that this rejection be withdrawn.

In the final response and in response to the above-made arguments, Examiner asserts that "Weingarten discloses the thermostatic valve 20 located at the upstream of the hot water control valve 12." Applicant respectfully disagrees. As demonstrated by the arrows in the annotated Figure above, the flow path of water to which thermostatic valve 20 is coupled extends from the inlet of supply pipes 10, 11; through the location of the fluid connection of valves 12, 13 to supply pipes 10, 11; through the location of the

fluid connection of valves 16, 17; through pipes 18, 19 and, finally through pipe 35. The temperature regulating device 20 of Weingarten is coupled to this flow path downstream of the point where valves 12, 13 are coupled to this flow patch. In other words, in order for temperature regulating device 20 to be coupled to the hot water supply pipe at a location upstream of the hot water valve 12, as required in the claims of the present invention, temperature regulating device 20 would have to be coupled to pipe 10 at a point upstream of valve 12 in the area of the inlet.

Examiner further asserts that the "hot water control valve only controls the supply hot water to a transverse mixing pipe 14, therefore, the downstream of the hot water control valve 12 includes pipe 14 and outlet 15 and the thermostatic valve 20 is upstream of valve 12." Applicant respectfully disagrees. First, this logic requires that the temperature regulating device 20 be positioned on a stream of water that includes the flow stream from valve 12 to outlet 15. In other words, for temperature regulating device 20 coupled to the stream flowing to pipe 14 and outlet 15 and, therefore, be upstream of valve 12 under this logic, water would need to flow from thermostatic valve to outlet 15. That is not the case. Moreover, in order for temperature regulating device 20 to be upstream of valve 12, water would have to flow in the direction from the point where temperature regulating device 20 is coupled to the water source pipe 10 toward valve 12. The water does not flow in this direction. Even if one were to assume that the hot water supply pipe was only that portion of the pipe upstream of valve 12, then the most one could argue is that temperature regulating device 20 is coupled to the hot water supply pipe, via pipes 18, 10 and valve 16, at the same point as valve 12. However, the claims of the present invention require that the thermostatic tempering/mixing/anti-scald valve be coupled to the supply pipe upstream of the hot water control valve.

For all the above-discussed reasons, Applicant asserts that Weingarten '128 fails to disclose thermostatic tempering/mixing/anti-scald valve coupled to the hot water supply pipe at a location upstream of the hot water control valve. Because Weingarten '128 fails to disclose all of the features of claims 1, 5 and 12, these claims and claims 2-4, 6-8, 13-21 and 13-24 depending therefrom, are not anticipated by, and are patentable over, Weingarten '128. Applicant respectfully requests that this rejection be withdrawn.

4. Rejections to the Claims Under 35 U.S.C. §103.

Claims 2-4, 6-11, 14, 16, 18-21, 23 and 24 were rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 2,296,128 to Weingarten in combination with one or more of U.S. Patent Nos. 3,105,519 to Fraser and 917,157 to Sandham.

As discussed above, independent claims 1, 5 and 12, as amended, call for a plumbing assembly having, among other things, hot and cold water supplies, hot and cold water control valves coupled to respective hot and cold water supplies, a fill member or spout coupled to hot and cold water pipes downstream of the hot and cold water control valves, and an anti-scald valve (or thermostatic tempering valve in the case of claim 1) coupled to hot water supply at a location upstream of the hot water control valves. Similarly, claim 9 calls for a method for controlling the temperature of water flowing to a tub by the steps, among other, of connecting a thermostatic mixing valve to hot and cold water supplies, connecting the output of the anti-scald valve to the bathtub filler, and connecting hot water control valves to the hot and cold water supplies at a position downstream of the mixing valve (i.e. the anti-scald valve is upstream of the hot and cold water control valves). By way of the anti-scald valve's upstream connection to the primary hot and cold water supply pipes, the anti-scald valve can control the maximum flow of hot water to the hot water valve and, ultimately, the tub filler or spout independent of the hot control valve. For the reasons discussed above, Weingarten '128 fails to disclose, teach or suggest an anti-scald valve coupled to the hot water supply pipe at a location upstream of the hot water control valve.

Fraser '519 discloses a balanced pressure mixing valve but does not disclose, teach or suggest coupling this valve to the hot water supply pipe at a location upstream of the hot water control valve. For this reason, no combination of Weingarten '128 and Fraser '519 would yield the invention of claims 1, 5, 9 and 12, and claims depending therefrom.

Sandham '157 discloses a spraying attachment for bathtubs. Sandham '157 does not disclose, teach or suggest the use of any type of anti-scald, thermostatic or pressure

mixing valve, let alone coupling such a valve upstream of the hot water control valve. Accordingly, no combination of Weingarten '128 and Sandham '157 would yield the invention of claims 1, 5, 9 and 12.

For the reasons discussed above, no combination of the cited prior art discloses, teaches or suggests all of the limitations of independent claims 1, 5, 9 and 12. Accordingly, claims 1, 5, 9 and 12, and claims 2-4, 6-8, 10-11, 13-21 and 23-24 depending therefrom, are patentable over the cited art. Applicant respectfully requests that this rejection be withdrawn.

5. Double Patenting Rejection

Applicant is providing, herewith, a terminal disclaimer in compliance with 37 C.F.R. § 1.321 with respect to co-pending application no. 10/704,086. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

CONCLUSION

In view of the above-made amendments and remarks, Applicant believes that the claims are in condition for allowance and respectfully requests action toward a Notice of Allowance. Applicant hereby requests a three month extension of time and submits the applicable fee herewith. Applicant believes that no additional fees are due in connection with this submission, however, if any fees are necessary, please charge Deposit Account No. 50-1438, Sommer Barnard PC.

Respectfully submitted,

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